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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): A859/52206

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Typed or printed name Barbara Lopez

Application Number	Filed
10/807,631	March 23, 2004

First Named Inventor: Neal H. Avery

Art Unit	Examiner
1724	Minh-Chau Pham

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record. Registration number 44,641.
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

Tom H. Dao
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Telephone number

February 6, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 8 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Barbara Lopez

Appl No.	: 10/807,631	Confirmation No. 4033
Applicant	: Neal H. Avery	
Filed	: March 23, 2004	
Title	: AIR FILTER SYSTEM	
TC/A.U.	: 1724	
Examiner	: Minh-Chau Pham	
Docket No.	: 52206/A859	
Customer No.	: 23363	

ARGUMENTS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

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February 6, 2006

Commissioner:

Applicant is filing this paper concurrently with a Pre-Appeal Brief Request for Review (form PTO/SB/33) and a Notice of Appeal. For the reasons set forth below, Applicant submits that the Examiner has not established a clear prima facie case of obviousness as required under MPEP §2142 in rejecting claims 1, 3-6, 9-13, 15, 18, 19, 21-22, 24-27, 31-44, 46-48, and 50.

Of the rejected claims, claims 1, 9, 15, 21, and 35 are independent claims. Claim 1 recites, in part, an air filtration system comprising a two-part housing, a filter medium disposed in the interior cavity of the housing, an inlet nozzle defining an opening having an inside diameter on the upper housing part; the diameter of the opening being smaller than an inside diameter of the air supply nozzle of the passenger compartment; and an adhesive bonded to at least one of the exterior surface of the upper housing part proximate the inlet nozzle or the air supply nozzle of the passenger compartment.

Appln No. 10/807,631
Art Unit: 1724

Applicant submits that the cited prior art references, either alone or in combination, failed to render independent claim 1 obvious because they are either (1) incompatible and not combinable or (2) do not disclose each and every element of the claimed air filtration system.

In rejecting claims 1, 3-6, 9-13, 15, 18, 19, 21-22, 24-27, 31-44, 46-48, and 50, the Examiner provided a single explanation of what Sinclair discloses including a two-part housing, a filter (16), and a "mounting guide (34)". Although the Examiner admits that Sinclair does not disclose an adhesive foam pad disposed on the exterior surface of the inlet port, the Examiner states that "Reeves discloses that [a] filter media can be a foam gasket" having "an adhesive formed upon the foam gasket for attaching the air filter system to an air supply ventilation nozzle." The Examiner then concludes that it would have been obvious to a person having ordinary skill in the art at the time of the invention was made "to apply an adhesive as taught by Reeves upon the foam gasket of the air filter system of Sinclair since the adhesive promotes the attachment of the filter media to the ventilation nozzle without the need of any tools." Applicant respectfully submits that the conclusion has no rational basis when applied to the claimed air filtration system.

FIGs. 1 and 3 of the Sinclair reference (top) and FIGs. 1 and 3 of the Reeves reference are reproduced below for discussion.

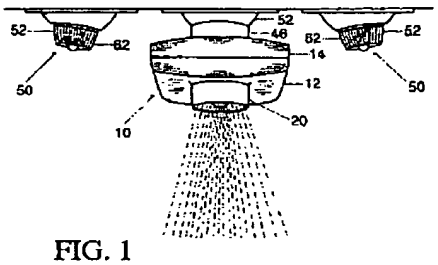
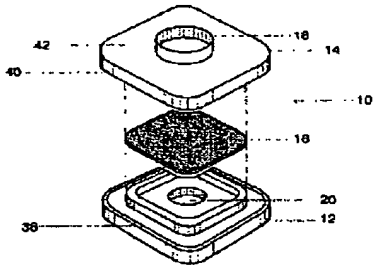


FIG. 1

FIG. 3



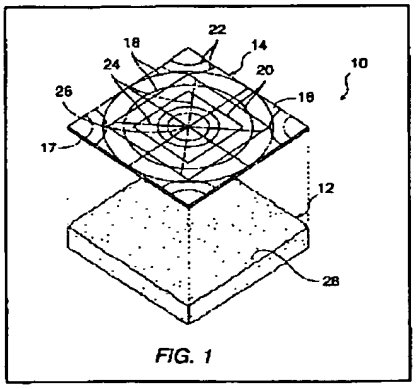


FIG. 1

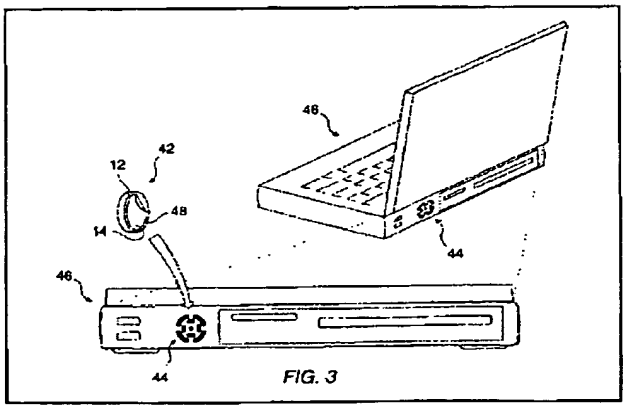


FIG. 3

Sinclair teaches a filter apparatus having "connecting member 46 formed about the inlet port 18. The connecting member 46 is substantially cylindrical and includes a central opening 48 sized to snugly fit over the outlet 50 of the ventilation control nozzle 52." (Col. 4, lines 18-21, emphasis added). "In use, the air filter unit 10 is frictionally attached to the outlet 50 of the ventilation control nozzle 52 of a passenger aircraft. . . The air filter unit 10 is attached to the ventilation control nozzle 52 by placing the connecting member 46 over the outer surface 62 of the ventilation control nozzle 52 until the inner surface 64 of the connecting member 46 frictionally engages the outer surface 62 of the ventilation control nozzle 52 sufficiently to hold the air filter unit 10 in position. Once the air filter unit is properly positioned, air forced through the ventilation control nozzle passes through the air filter unit and out the conical outlet port to form an umbrella of fresh filter air around the passenger." (Col. 4, lines 42-58, emphasis added. See also FIG. 3).

FIGs. 1 and 3 and the foregoing passages of the Sinclair reference clearly show that the inlet nozzle 18 on the housing is used to attach the filter assembly to an air supply nozzle while the filter medium 16 located inside the housing 10 is configured to filter air.

Contrariwise, Reeves discloses a filter comprising a foam pad 12 having non-drying adhesive sprayed thereon (Col. 4:18-21) for directly bonding to a structure and filtering air passages to or from the structure without a housing (FIG. 3). In fact, Reeves expressly teaches away from using a housing as that increases the size and the cost of the assembly (Col. 1:40-49). The housing, according to Reeves, also "impede[s] the flow of air through the air filters thereby reducing the effectiveness of the air filters." (Col. 1:55-60).

Reeves further states that:

> . . . most commonly available filters are those which are confined within a casing made of material which is not intended to assist in the filtering function but simply intended to physically house and retain the filter in a given location. As such, casings made of, for example, cardboard and plastic limit the application of filter materials to unanticipated and geometrically complex surfaces. Even if a manufacturer was to offer a line of filters for every conceivable application, filter distributors would have to inventory an unrealistically large number of products to complete their filter line inventory. (Col. 2:1-10).

Finally, in the object section of the disclosure, Reeves states that "[i]t is a[n]. . .object of the present invention to provide a self-adhesive air filter which can be positioned in various air ingesting and/or expelling devices without using an air filter housing." (Col. 2:64-67).

Hence, Sinclair and Reeves are not compatible. While Sinclair discloses a filter assembly that uses a housing to attach to an air source and a filter media located inside the housing to filter the air, Reeves teaches a filter that incorporates adhesive directly onto a foam media for bonding directly to the air source without a housing.

Most importantly, even if Sinclair and Reeves can be combined, Reeves' use of a foam pad and adhesive would be incorporated with Sinclair's filter medium 16 (as suggested by the Examiner), which is located on the inside of the housing. Hence, the adhesive would serve no purpose, and especially would not "promote the attachment of the filter media to the ventilation nozzle without the need of any tools" as suggested by the Examiner. Again, as shown in FIG. 1 of the Sinclair reference, the filter housing already attaches to the air nozzle without using tools.

With reference to independent claim 1, the combination of Sinclair and Reeves does not disclose a filtration system comprising a filter medium disposed in the interior cavity and an adhesive bonded to the exterior surface of the upper housing or the air supply nozzle, nor one in which the inlet diameter is smaller than an inside diameter of the air supply nozzle. If this was true, the Sinclair housing could not be mounted to an air nozzle as disclosed in the '230 patent.

The combination also does not disclose the method of filtering air recited in independent claim 9, including the step of passing air through an inlet nozzle wherein the opening has a smaller inside diameter than the inside diameter of the air inlet nozzle, and filter air using a filter medium located inside the filter housing, which is separate from an adhesive incorporated on the exterior surface of the housing or the air supply nozzle.

The combination also does not disclose the filtration device recited in independent claim 15, which includes a housing, a filter medium disposed in the interior cavity of the housing, and wherein an adhesive is bonded to a portion of the exterior surface of the upper section proximate the inlet nozzle, and wherein the adhesive comprises a passage for passing air discharged from the air supply nozzle. Again, by applying Reeves' adhesive to Sinclair's filter, the filter with adhesive would be positioned on the inside of the Sinclair housing, which is not relevant to the recited filtration device.

The combination also does not disclose the filtration device recited in independent claim 21, which includes a two part filter housing, a filter media disposed in the interior cavity of the housing, an adhesive foam pad comprising a passage opening bonded to a portion of the exterior surface of the upper housing section proximate the inlet nozzle; and wherein the passage opening of the adhesive foam pad is generally centered with the inlet nozzle on the upper housing section by a mounting guide. The mounting guide 34 disclosed by Sinclair guides the filter located on the inside of the housing, which is different from the mounting guide recited in claim 21 for centering the adhesive mounted on the outside of the housing.

The combination also does not disclose the filtration device recited in independent claim 35, which includes a housing having an adhesive foam pad comprising a passage opening affixed to an exterior surface of the filter housing with the opening generally aligned with the inlet opening.

Because claims 3-6, 10-13, 18, 19, 22, 24-27, 31-34, 36-44, 46-48, and 50 depend from one of independent claims 1, 9, 15, 21, and 35, they too are allowable.

In view of the foregoing remarks, Applicant submits that the Office Action is not sustainable.

Should the Examiner have a need to speak with Applicant's attorney, she is invited to speak with the undersigned at the telephone number identified below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By _____
Tom H. Dao
Reg. No. 44,641
626/795-9900

THD/bl

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